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In the Supreme Court of the United States

OCTOBER TERM, 1952

No. 830

UNITED STATES OF AMERICA, PETITIONER

v.

CITY OF NEW BRITAIN, CONNECTICUT, ET AL.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ERRORS OF THE STATE OF CONNECTICUT

The Acting Solicitor General, on behalf of the United States, prays that a writ of certiorari issue to review the judgment of the Supreme Court of Errors of Connecticut entered December 30, 1952, affirming the judgment of the Superior Court of Connecticut entered December 18, 1951.

OPINIONS BELOW

The memorandum opinion of the Superior Court of Connecticut for Hartford County (R. 8) is not reported. The opinion of the Supreme Court of Errors of Connecticut (R. 17–23) is reported at 94 A. 2d 10.

JURISDICTION

The judgment of the Supreme Court of Errors of Connecticut was entered December 30, 1952. (R. 23.) On March 11, 1953, Mr. Justice Jack-

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son extended the time for filing a petition for a writ of certiorari to and including May 29, 1953 (R. 24). The jurisdiction of this Court is invoked under 28 U. S. C., Section 1257 (3).

This suit (originating as a mortgage foreclosure proceeding) arises out of conflicting tax claims of the United States and the City of New Britain, Connecticut, against the proceeds derived from the sale of the mortgaged property which remained after the satisfaction of the mortgages and other prior claims. In the trial court (the Superior Court for Hartford County, Connecticut), the United States asserted that its liens under Sections 3670–3672 of the Internal Revenue Code gave it a right to the fund which was paramount to the tax and water rent liens asserted by the City under the Connecticut statute (R. 16). That court held that the City's liens were superior to those of the United States, and that the City was entitled to have its taxes and water rents paid out of the fund before the United States might participate (R. 10–16). On appeal to the Supreme Court of Errors of Connecticut, the United States again asserted the superiority of its liens under Sections 3670–3672 of the Internal Revenue Code (R. 16). That court held that the liens of the City were paramount to those of the United States, also specifically rejecting the contention of the United States as to Sections 3670–3672 (R. 21–23).

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QUESTIONS PRESENTED

1. Whether the lien for unpaid taxes accorded the United States by Section 3670 of the Internal Revenue Code "upon all property * * * belonging to [a delinquent taxpayer]" is superior to a municipal tax lien where the property to which the liens attach still belongs to the taxpayer when the federal lien arises.

2. Whether the federal tax lien is rendered subordinate to a municipal tax lien merely because the state law makes the municipal lien superior to a mortgage, which Section 3672 of the Internal Revenue Code excepts from the validity of an unrecorded federal tax lien.

STATUTES INVOLVED

The pertinent portions of the statutes involved are set forth in the Appendix, *infra,* pp. 20–22.

STATEMENT

This case involves the relative superiority of the tax liens of the United States and those of the City of New Britain, Connecticut, upon property of a delinquent taxpayer, General Laundry Service, Inc. The property was sold in connection with the foreclosure of two mortgages, and the proceeds of the sale after satisfaction of the mortgages and other prior claims were insufficient to satisfy both the state and federal tax liens.

The foreclosure action was instituted in the Superior Court for Hartford County, Connecti-

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cut, by Louis Brown, as mortgagee, against General Laundry Service, Inc., the taxpayer-mortgagor, and others, including the United States and the City of New Britain, Connecticut, who claimed an interest in the mortgaged property. The action resulted in a judgment of foreclosure and sale of the property. (R. 5–6.) The proceeds of the sale plus rents collected by a receiver of rents amounted to $28,071.24, and the expenses of the sale amounted to $1,761.09. By supplemental judgment ratifying the sale, the Superior Court found that the property and the net proceeds of the sale were subject to tax liens of the City totaling $3,587.71; mortgage liens in the amount of $15.319.35; a judgment lien in the amount of $2,017.18; and tax liens of the United States totaling $8,475.13 (R. 9–11).

The tax liens of the United States are for withholding taxes for periods from 1947 to 1950, the assessment lists of which had been received by the Collector on various dates between April 26, 1948, and September 21, 1950; federal insurance contributions for periods from 1949 to 1950, the assessment lists of which had been received by the Collector on various dates between June 20, 1949, and September 21, 1950; and federal unemployment tax for the year 1948, the assessment list of which had been received by the Collector on July 26, 1950. The United States demanded payment of these taxes, totaling $8,475.13, but payment was not made. Notice of federal tax lien in that

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amount was then filed in the office of the Town Clerk of New Britain and in the office of the Clerk of the United States District Court in New Haven, on March 19, 1951. (R. 15–16.)

The tax liens of the City are for real estate taxes for 1947 to 1951 which became due at various dates between October 1, 1947, and 1951; and for water rents which became due at various dates between December 1, 1947, and June 1, 1951 (R. 14–15).

The United States conceded that its liens were subordinate to the mortgages and the claim of the judgment creditor,[1] but contended that they were paramount to the liens of the City. The Superior Court of Connecticut ruled that the net proceeds of the sale were distributable to the respective lienors in the following order: the City, the mortgagee, the judgment creditor, and the United States. This left a balance of only $5,385.91 available for payment to the United States on account of its tax liens totaling $8,475.13. (R. 10–11, 16.) The court held that the City's liens took precedence over the United States tax

[1] The mortgagee and judgment creditor fall within the provisions of Section 3672 of the Internal Revenue Code, *infra*, pp. 20–21, which excepts from the validity of the federal tax lien a "mortgagee, pledgee, purchaser, or judgment creditor" whose interest is acquired before notice of the federal lien is filed. Thus, the controversy concerns solely the relative superiority of the federal and municipal tax liens in relation to the surplus proceeds of the foreclosure sale (R. 14).

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liens on the ground that they were "created by the State of Connecticut and represent an attribute of sovereignty," and that Congress had not provided for priority of federal tax liens (R. 8). On appeal by the United States, the Supreme Court of Errors affirmed, holding that the liens accorded the United States for its taxes by the federal lien statute (Sections 3670–3672 of the Internal Revenue Code) were inferior to those accorded the City for its taxes by the Connecticut statute (R. 17–23).

SPECIFICATION OF ERRORS TO BE URGED

The court below erred:

1. In holding that under Section 3670 of the Internal Revenue Code the relative superiority of tax liens of the United States and liens of the City depends upon the time when the respective liens arose.

2. In holding that those tax liens of the City which arose before the federal tax liens came into existence were sufficiently perfected to divest the taxpayer of property to which the federal liens, when they arose, would have otherwise attached.

3. In holding that the tax liens of the City, including those which arose after the federal tax liens had arisen, fell within the exception to the validity of the federal lien enacted by Congress in Section 3672 of the Internal Revenue Code in favor of mortgage and judgment liens, merely because the Connecticut statute grants municipal

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tax liens superiority over mortgage and judgment liens.

4. In holding that each of the City's liens was paramount to each of the tax liens of the United States.

REASONS FOR GRANTING THE WRIT

Section 3670 of the Internal Revenue Code, *infra,* p. 20, provides that a federal tax which is not paid becomes a lien "upon all property and rights to property, whether real or personal, belonging to such person." Section 3672 of the Code, *infra,* pp. 20–21, provides that this lien "shall not be valid as against any mortgagee, pledgee, purchaser, or judgment creditor until notice thereof has been filed."

In reaching its conclusion that the municipal tax liens were superior to the federal tax liens under these Code provisions, the court below followed two unsound theories. First, it held that Congress in enacting Section 3670 did not give federal liens priority over municipal tax liens unless the federal lien is prior in time (R. 21).[2] Secondly, the court held that in view of Section 3672 of the Internal Revenue Code, *infra,* pp. 20–21, which excepts from the validity of the federal lien until it is recorded, mortgagees, pledgees,

[2] The federal tax liens are fourteen in number and arose on various dates between 1948 and 1950 (R. 16), while the municipal liens are nineteen in number and arose on various dates between 1947 and 1951 (R. 15). Some of the federal liens antedated some of the municipal liens, and *vice versa.*

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purchasers, and judgment creditors, Congress did not accord priority to the federal lien even if it arises prior to the municipal liens, if by state statute the municipal liens take precedence over mortgagees, judgment creditors, etc. (R. 22).

If the construction placed by the court below on Section 3670 stands, municipal tax liens which are prior in time will be paramount to federal tax liens, despite the fact that, as here, the property is still owned by and in the possession of the taxpayer when the federal lien arises. And if its construction of Section 3672 is followed, the application of the federal law will depend upon whether the state declares that its liens shall have supremacy over mortgages, pledges, purchases, and judgments. Thus, in any case where claims in any of those categories exist, any state may subordinate the federal lien to its own, regardless of the fact that its lien is not perfected, by enacting a statute making its tax or other liens paramount to claims of the character that Section 3672 excepts from the validity of the federal lien until it is recorded. Under that principle, the federal lien statute, instead of being applied uniformly among the several states, as this Court has held it should be, will be subject to varied applications, and may be avoided in those states which apply state statutory devices for making state tax liens superior to federal tax liens. It is clear that the questions presented by the rulings below are im-

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portant and recurring in the administration of the federal tax law.

1. (a) In so far as the decision below rests upon the theory that the relative superiority of the federal tax lien and an adverse state statutory lien depends upon the time the respective liens arose, it fails to give full effect to the federal lien statute. In the exercise of its constitutional authority to lay and collect taxes, Congress has, in enacting Section 3670 of the Internal Revenue Code, *infra*, p. 20, vested in the United States a lien for unpaid taxes "upon all property and rights to property, whether real or personal, belonging to [a delinquent taxpayer]." "Stronger language could hardly have been selected to reveal a purpose to assure the collection of taxes." *Glass City Bank* v. *United States*, 326 U. S. 265, 267. See also *United States* v. *Security Tr. & Sav. Bk.*, 340 U. S. 47; *United States* v. *Snyder*, 149 U. S. 210; *Detroit Bank* v. *United States*, 317 U. S. 329; *Michigan* v. *United States*, 317 U. S. 338. In Section 3671 of the Internal Revenue Code, *infra*, p. 20, Congress further provided that the lien arises when the assessment list is received by the Collector and "shall continue" until the tax liability is satisfied or becomes unenforceable by lapse of time. The two sections, read together, reveal a "plain intent" that the federal lien, when it arises, is to attach to all property belonging to the taxpayer—not only to property "owned

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when the lien arose," but even to property thereafter acquired at any time during the life of the lien. *Glass City Bank* v. *United States, supra,* at p. 267.

Except as Congress itself has provided otherwise, the federal tax lien is paramount to all others and may not be impaired or superseded by state law or judicial decision. *United States* v. *Gilbert Associates,* 345 U. S. 361; *United States* v. *Security Tr. & Sav. Bk., supra; United States* v. *Snyder, supra; Michigan* v. *United States, supra.* See also *MacKenzie* v. *United States,* 109 F. 2d 540, 542 (C. A. 9); *United States* v. *Reese,* 131 F. 2d 466, 469 (C. A. 7); *Investment & Securities Co.* v. *United States,* 140 F. 2d 894, 896 (C. A. 9); *Miller* v. *Bank of America, N. T. & S. A.,* 166 F. 2d 415, 417 (C. A. 9). The only exceptions that Congress has seen fit to make are those specifically enumerated in Section 3672 of the Internal Revenue Code. That section provides that the federal lien "shall not be valid as against any mortgagee, pledgee, purchaser, or judgment creditor until notice thereof has been filed by the collector" in one of the designated recording offices. Thus, an adverse lien holder, in order to prevail over the federal lien, must satisfy two conditions—he must acquire one of the classes of interests enumerated in Section 3672, and he must acquire that interest before the federal lien is recorded. In the *Security Tr. & Sav. Bk.* case, *supra,* this Court held that the federal tax lien

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was paramount to a creditor's attachment lien obtained under state law, notwithstanding that the attachment lien arose prior to the federal lien and later ripened into a judgment lien, because the attachment lien had not yet become a "judgment" lien when the federal lien was recorded. See also *United States* v. *Gilbert Associates, supra.* Nothing in the language of the federal lien statute or its legislative history[3] lends any support to the view, propounded by the court below, that adverse liens which do not fall within any of the enumerated exceptions are nonetheless to be accorded an exception merely because they arise before the federal lien comes into existence.[4]

[3] When the federal tax lien statute was originally enacted in 1866 it made no exception whatever in favor of any third party. In *United States* v. *Snyder*, 149 U. S. 210, decided under this statute, it was held that the federal lien prevailed even as against a bona fide purchaser for value, regardless of the protection afforded the purchaser by state law. This decision led to an amendment in 1913, now contained in Section 3672 of the Internal Revenue Code, to the effect that the federal lien is not to be valid against a mortgagee, purchaser, or judgment creditor, unless notice of the lien had been filed. In 1939, the statute was again amended so as to include a pledgee among those protected against an unrecorded federal tax lien. The history of the federal lien statute led Mr. Justice Jackson in his concurring opinion in the *Security Tr.* case to conclude (pp. 52–53) that the only interests which are superior to the federal tax lien are those specifically mentioned in Section 3672 "and no others." See also *United States* v. *Gilbert Associates, supra; MacKenzie* v. *United States*, 109 F. 2d 540, 542 (C. A. 9).

[4] See, however, *United States* v. *Canadian American Co., Inc.*, 108 F. Supp. 206 (E. D. N. Y.), affirmed, *per curiam*, 202 F. 2d 751 (C. A. 2), wherein the United States District

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Certainly, Congress was aware that adverse liens, including local tax liens, might be outstanding against the property of a taxpayer at the time federal taxes were assessed. It nevertheless directed in Sections 3670 and 3671 that the federal lien shall extend to "property * * * belonging to" the taxpayer at the time the assessment list is received by the Collector, while in Section 3672 it carved out a limited class of interests "as against" which an unrecorded federal lien "shall not be valid." One who becomes a mortgagee, pledgee, purchaser, or judgment creditor before notice of the federal lien is filed comes within the exceptions, even though he acquires such interest after the federal lien arises. Conversely, since state or municipal tax liens do not fall within any of these exceptions, they are subordinate to the federal lien even though they may have arisen first. The court below has read into the federal statute a new category of exceptions, *i. e.,* statutory liens held by a state which are outstanding when the federal lien arises. Whether such additional exceptions should be created is, we submit, a matter for Congress, not for the courts. *Glass City Bank* v. *United States, supra; United States* v. *Gilbert Associates, supra;* cf. *Illinois* v. *Campbell,* 329 U. S. 362, 376.

Court held that county tax liens which were prior in time were paramount to a federal tax lien arising under Section 3670 of the Internal Revenue Code.

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(b) That part of the decision below which is predicated on the hypothesis that some of the municipal liens had been "perfected" before the federal liens arose, is not only incompatible with other portions of the court's opinion which characterize the municipal liens as "inchoate" (R. 20, 21–22), but is contrary to this Court's pronouncements of what constitutes a perfected adverse lien. In the *Security Tr. & Sav. Bk.* case, *supra,* the Court, in rejecting the claimed superiority of a creditor's attachment lien over a subsequently arising federal tax lien (p. 51), assimilated the effect of an adverse lien in relation to the federal lien statute to the effect of such a lien in relation to the federal priority statute (R. S. 3466). The Court there held that an unperfected adverse lien (other than one excepted by Code Section 3672) no more suffices to defeat the federal tax lien impressed by Code Section 3670 upon all property belonging to the taxpayer when the federal lien arises, than it does to defeat the priority accorded federal claims by R. S. 3466, which priority attaches to the property of an insolvent debtor when he makes a general assignment for the benefit of creditors or commits an act of bankruptcy.[5] To be "per-

[5] The federal lien and priority statutes supplement each other, and their common purpose is to insure the prompt and certain collection of the federal revenue. *United States* v. *Security Tr. & Sav. Bk., supra,* at p. 51. The lien statute applies whether or not the taxpayer is insolvent and even though the taxpayer is divested of the property after the

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fected," an adverse lien must have been enforced at least to the point of divesting the taxpayer of either title or possession. *United States* v. *Gilbert Associates, supra; Illinois* v. *Campbell, supra,* at pp. 375–376; *United States* v. *Waddill Co.,* 323 U. S. 353, 357–360; *United States* v. *Texas,* 314 U. S. 480, 488; *New York* v. *Maclay,* 288 U. S. 290, 294; *Spokane County* v. *United States,* 279 U. S. 80, 95. In cases involving application of the priority statute "it has never been held sufficient to defeat the federal priority merely to show a lien effective to protect the lienor against others than the Government, but contingent upon taking subsequent steps for en-

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federal lien arises, while the priority statute comes into play only if the taxpayer is insolvent and with respect to property owned at the time of insolvency. The claim of the United States may be paramount to an adverse lien under one statute, or the other, or (as in the *Gilbert* case) both. For example, one who acquires a judgment lien or becomes a purchaser after the federal lien is recorded does not come within the exceptions specified in Section 3672, and the federal lien will continue to attach to the property even after the taxpayer has been divested of it by a sale in execution of the judgment and whether or not the taxpayer is insolvent (*United States* v. *Snyder, supra*); in such case, the federal claim is protected by the lien statute and not the priority statute. On the other hand, one who acquires a judgment lien before the federal lien is recorded does come within the exceptions of Section 3672, but if the taxpayer becomes insolvent before the judgment lien is "perfected" to the point of divesting the taxpayer of the property, the federal claim will nevertheless prevail by virtue of the priority statute (*Thelusson* v. *Smith*, 2 Wheat. 396); in such case, the federal claim is protected by the priority rather than the lien statute.

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forcing it", and "a similar rule" applies in cases involving application of the federal lien statute. *United States* v. *Security Tr. & Sav. Bk., supra,* at p. 51.

No claim is or can be made here that the City had divested the taxpayer of any interest in the property in question before the federal liens arose.[6] The City's lien "did not of its own force divest the taxpayer of either title or possession" (*United States* v. *Texas, supra,* at p. 488), and the "mere attachment" of the lien was not tantamount to perfection of it (*United States* v. *Gilbert Associates, supra,* at p. 366). Like any other unperfected lien, the City's lien represented a mere power to divest the taxpayer of the property subject to the lien. Until the power was exercised the property remained "property * * * belonging to [the taxpayer]," within the meaning of Section 3670 of the Internal Revenue Code, to which the federal liens attached when they arose. In holding that the liens created by the Connecticut statute in favor of its municipalities were sufficiently "perfected" to defeat those created by the federal statute in favor of the United States, solely by virtue of the fact that they antedated the federal liens, the court below vio-

[6] Section 1853 of the Connecticut General Statutes, *infra,* p. 22, provides that during its existence the municipal tax lien "may be enforced by levy and sale" of the taxpayer's interest in the property. See also Section 758, *infra,* pp. 21–22, applicable to water liens. Admittedly, no such action was taken here.

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lated the "cardinal principle" that the federal lien statute is to be applied with nationwide "uniformity". *United States* v. *Gilbert Associates, supra,* at p. 364.[7]

2. To the extent that the decision below rests on the theory that the municipal liens (regardless of when they arose) are paramount to the federal liens because the Connecticut statute makes them superior to mortgage and judgment liens, it is in conflict with the holdings of this Court that the federal lien may not be displaced by state legislation. To be sure, the federal statute excepts from the validity of the federal lien mortgagees and judgment creditors whose liens arise before the federal lien is recorded. But it hardly follows, as the court below assumed, that by granting such exceptions Congress intended also to except any adverse lien which a State elects to make superior to mortgage or judgment liens.[8] The only excep-

[7] Moreover, under the reasoning of the court below, the State may fix a date for the creation of its liens anterior even to the time its taxes are assessed and become due. Thus, Section 1853 of the Connecticut General Statutes provides that the tax lien of a municipality "shall exist from the first day of October or other assessment date of the municipality in the year previous to that in which such tax, or the first installment thereof, shall have become due." In regarding some of the municipal liens as having arisen before the federal liens, the court below stated (R. 21–22) that "Though inchoate, they attached on the first day of October in the year preceding that in which the taxes became due."

[8] The court erroneously assumed (R. 22) that if the federal liens should be given a rank ahead of the municipal liens, then either the municipal liens would have to be subordinated

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tions to the federal lien supremacy are those which Congress itself has "specifically" enumerated "and no others" (*United States* v. *Security Tr. & Sav. Bk., supra,* at p. 53, concurring opinion), and these exceptions may not be expanded by the states (*United States* v. *Gilbert Associates, supra*). For "the purpose of its own internal administration" (*United States* v. *Gilbert Associates, supra,* at p. 363), a state is free to rank it own claims ahead of any others; but the hierarchy prescribed by state law for local purposes cannot deprive the Government of "property * * * belonging to" the delinquent taxpayer which Congress in Section 3670 has commanded must be applied in satisfaction of federal taxes. By subordinating its tax liens to mortgage and judgment liens in Section 3672 the Government has not thereby subordinated itself to other liens which Connecticut places ahead of mortgage and judgment liens. To permit the state to superimpose its own or other adverse liens upon the

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to the mortgage in violation of the state statute or the mortgage would have to be subordinated to the federal liens in violation of the federal statute. These are not the exclusive alternatives. As this Court seems to have agreed in *Spokane County* v. *United States*, 279 U. S. 80, 91, the relative priorities could have been maintained without violating either statute, "by setting apart sufficient funds to pay the mortgage before paying the federal taxes and then providing for payment of the state tax out of the sum so set apart." If an anomalous result is produced by applying the sum set apart for the mortgage in satisfaction of the municipal liens, it stems from application of the state and not the federal statute.

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limited exceptions carved out by Congress would (*United States* v. *Snyder, supra, at* p. 214) place the collection of the federal revenue "at the mercy of state legislation." Under the rationale of the decision below, the states would be at liberty to preempt the paramount taxing power of the United States simply by ascribing to their own tax liens superiority over those which Congress has singled out for protection in Section 3672. Congress did not thus abdicate its supreme authority to decide what adverse interests should prevail over the federal tax lien. Had it intended to except state and municipal tax liens from the validity of the federal lien, in addition to the interests enumerated in Section 3672, it undoubtedly would have said so.[9] On this point, the

[9] The error of the court below is emphasized by its supposition (R. 22) that *if* the mortgagee had paid the City's tax claims and had added their amount to his mortgage claim, as permitted by the State statute, the superiority accorded the mortgage lien under Section 3672 would have extended to the City's liens. A tax lien is not transformed into a mortgage lien, for purposes of applying the exception provisions of the federal statute, merely because under the state statute it is assignable to a mortgagee who satisfies it. But even assuming, *arguendo*, that a tax lien could thus be converted into a mortgage lien within the meaning of the federal statute, the transformation would occur only if and when the tax was paid by the mortgagee; and since even a mortgage lien is not protected against the federal lien unless it was acquired before the federal lien was recorded, the mortgagee's payment of the tax after the recording of the federal lien could not by "relation back" (*United States* v. *Security Tr. & Sav. Bk.*, *supra*, at p. 50) be treated as having retroactively created an additional mortgage lien as of a prior date. In

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decision below is directly in conflict with decisions of other state courts in *Samms* v. *Chicago Title & Trust Co.*, 111 N. E. 2d 172 (Ill. App.); and *Hopkins* v. *Eureka Coal Co.*, decided February 25, 1944 (1944 C. C. H., par. 9320) (Circuit Court, W. Va.).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

ROBERT L. STERN,
Acting Solicitor General.

MAY 1953.

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any event, since the mortgagee concededly never paid the municipal taxes, the observations of the court below regarding the effect of such a payment on the relative superiority of the municipal and federal tax liens are academic.

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APPENDIX

Internal Revenue Code:

SEC. 3670. PROPERTY SUBJECT TO LIEN.

If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, penalty, additional amount, or addition to such tax, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person. (26 U. S. C. 1946 ed., Sec. 3670.)

SEC. 3671. PERIOD OF LIEN.

Unless another date is specifically fixed by law, the lien shall arise at the time the assessment list was received by the collector and shall continue until the liability for such amount is satisfied or becomes unenforceable by reason of lapse of time. (26 U. S. C. 1946 ed., Sec. 3671.)

SEC. 3672 [As amended by Section 401, Revenue Act of 1939, c. 247, 53 Stat. 862, and Section 505, Revenue Act of 1942, c. 619, 56 Stat. 798]. VALIDITY AGAINST MORTGAGEES, PLEDGEES, PURCHASERS, AND JUDGMENT CREDITORS.

(a) *Invalidity of Lien Without Notice.*— Such lien shall not be valid as against any mortgagee, pledgee, purchaser, or judgment creditor until notice thereof has been filed by the collector—

(1) *Under State or Territorial Laws.*— In the office in which the filing of such notice is authorized by the law of the State or Territory in which the property subject

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to the lien is situated, whenever the State or Territory has by law authorized the filing of such notice in an office within the State or Territory; or

(2) *With Clerk of District Court.*—In the office of the clerk of the United States district court for the judicial district in which the property subject to the lien is situated, whenever the State or Territory has not by law authorized the filing of such notice in an office within the State or Territory; or

(3) *With Clerk of District Court of the United States for the District of Columbia.*—In the office of the clerk of the District Court of the United States for the District of Columbia, if the property subject to the lien is situated in the District of Columbia.

* * * * *

(26 U. S. C. 1946 ed., Sec. 3672.)

General Statutes of Connecticut (1949 Rev.):

SEC. 758. *Rates for use.*—The legislative body shall establish just and equitable rates or charges for the use of the waterworks system authorized herein, to be paid by the owner of each lot or building which is connected with and uses such system and may change such rates or charges from time to time. * * * Such rates or charges, if not paid when due, shall constitute a lien upon the premises served and a charge against the owners thereof, which lien and charge shall bear interest at the same rate as would unpaid taxes. Such lien shall take precedence over all other liens or incumbrances except taxes and may be foreclosed against the lot or building served in the same manner as a lien for taxes. The amount of any such rate or charge which

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remains due and unpaid for thirty days may, with reasonable attorneys' fees, be recovered by the legislative body in a civil action in the name of the municipality against such owners. * * *

SEC. 1853. *Tax liens; precedence; enforcement.*—The interest of each person in each item of real estate, which shall have been legally set in his assessment list, shall be subject to a lien for that part of his taxes laid upon the valuation of such interest, as found in such list when finally completed, as such part may be increased by interest, fees and charges. Such lien, unless otherwise specially provided by law, shall exist from the first day of October or other assessment date of the municipality in the year previous to that in which such tax, or the first installment thereof, shall have become due until one year after such tax or first installment thereof shall have become due, and, during its existence, shall take precedence of all transfers and incumbrances, in any manner affecting such interest in such item, or any part of it. Such lien, during its existence, may be enforced by levy and sale of such real estate in the event that such person shall have complete title thereto or of his interest in such real estate in the event that he shall not have complete title thereto. No sale of real estate for taxes or foreclosure of any tax lien shall divest the estate sold of any existing lien for other taxes.

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